

Benyam and Paula R. Mulugeta
1025 Harker Ave.
Palo Alto, Ca. 94301
Tel. 650-906-8012
Email bmulugeta1020@gamil.com

Debtor in Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
CLERK
San Jose, California

In Re:

Benyam and Paula R. Mulugeta
Debtors

Case No. 09-51900 ASW

Chapter 11

EVIDENCY HEARING

Date: February 17, 2010

Time: 2:15 p.m.

Place: 280 S. First St. Rm. 3020
San Jose, Ca. 95113

Judge: The Honorable A Weissbrodt

**DECLARATION OF BENYAM MULUGETA RE; MOTION TO SELL REAL PROPERTY
"HARRISON"**

I, Benyam Mulugeta, do hereby declare:

1. I am one of the Debtors and authorized to make this declaration on my own behalf and on behalf of my spouse and debtor, Paula R. Mulugeta ("Debtors").
2. I submit this declaration of my own personal knowledge except as to those matters upon which I am informed and believe to be true. If called to testify as to the matters stated herein I could do so in an honest and competent manner.
3. The reason Debtors filed Chapter 11 to get protection from the bankruptcy court from lender like Lone Oak Fund LLC, and to stabilize their estate from collapsing, which has currently been achieved; and to concentrate in selling the property "Harrison", which has the most equity and is the most important for debtors reorganization plan, which allows Debtors to be able to pay all their creditors and come out of bankruptcy. In addition, the first phase of Debtors bankruptcy period was spent fixing and remodeling, the property known as 353 Grand Ave. Oakland, which has 21 units and 4 commercial units to stabilize and renting it back after 6 months of vacancy. Debtors had to close "Harrison" for over a year in order to convert it from residential hotel to

for over a year in order to convert it from residential hotel to commercial hotel. The condition of "Harrison" and "Grand" properties were the situations which brought the Debtors' estates to the verge of collapse, and which forced Debtors to file Chapter 11 on March, 2009 in order to stabilize the estate and to get protection from the court for reorganization.

4. Debtors submit that their estate is not a single-asset estate; therefore, the property "Harrison" should not be looked separately, since it is essential for Debtors overall reorganization plan.
5. Debtors argue that they should not be panelized and/or should not be hold responsible for action or in action of a 3rd party, namely a buyer like Trading Spaces LLC.
6. Debtors filed Chapter 11 to get protection for their property, not to defend the action of Trading Spaces LLC or any other 3rd party which Lone Oak Fund and its counsel Mr. Simon Aron tried to make the court focus on in order to achieve their objective, which is to take the property and destroy the Debtors, which is classic example of predatory lending.

PROPERTY TAX OWED ON THE REAL PROPERTY "HARRISON".

1. As of January 29, 2010 Debtors owe the County of Alameda a total of \$130,072.65, property tax on "Harrison", which covers 2007/2008 and 2008/2009 property tax as well as penalty and interest. (see Exhibit I). The \$165,000.00 stated by Mr. Simon Aron on his February 1st, 2010 response is not accurate.
2. Debtors contacted the County of Alameda on January 27, 2010 to arrange payment plan.
3. The County of Alameda told Debtors, if Debtors pay 20% of \$130,072.65, which is \$26,074.53, the County will work out an installment payment plan. Debtors are planning to pay the \$26,074.53 of the property tax on March 19, 2010 if Trading Spaces LLC, the buyer of "Harrison" property will not able to close by the first week of March, 2010.
4. The interest is computed at the rate of 1.5% per month of the unpaid balance. (see Exhibit II)

THE SALE OF REAL ESTATE "HARRISON" HAS BEEN DEBTORS PLAN A

1. Debtors contacted the buyer, Trading Spaces LLC, on February 7, 2010 in preparation of this declaration and talked to Mr. Gary G. Gornick, Managing Partner, to find out the status of "Harrison" purchase. Mr. Gornick told debtor, Benyam Mulugeta, that he, Mr.

1 Gornick, is 96 percent for sure that they will close the deal
2 before the end of February, 2010. The reason for the delay and
3 further extension is due to the complexity of the transaction and
4 the financial arrangement, which involved purchasing the six
5 hotels at the same time, said Mr. Gornick.

- 6 2. Debtors are arranging and talking to Mr. Gornick and/or the
7 lender Mr. Ronald Morgan of Argent Asset Management Inc. to come
8 to the court on February 17, 2010 at 2:15 to testify A) the
9 reason why the deal has taken so long to close B) Trading Spaces
10 LLC ability and desire to buy the real property "Harrison", C)
11 When for sure they think the deal will close.
- 12 3. On February 17, 2010 at 2:15 pm. Mr. Patrick J. O'Malley, MAI
13 commercial appraiser will be in court to testify during the
14 evidentiary hearing to the value of the real property "Harrison".
- 15 4. Mr. O'Malley re-inspected/appraised the "Harrison" property on
16 December 21, 2009 to determine if the property has maintained the
17 appraised value of May 17, 2009, which he did. On May 17, 2009 the
18 property was **appraised \$7,500,000.00 "as is"**. Debtors had
19 submitted the appraisal to the court in the past. Mr. O'Malley
20 concluded on December 21, 2009 that the property "Harrison" has
21 maintained its value, if not increased. Debtors believe Mr.
22 O'Malley will testify on February 17, 2010 the property
23 "Harrison" has maintained its value if not increased.
- 24 5. Mr. Bob Taylor, who is a real estate broker and who has extensive
25 knowledge in real estate business will testify to the value of
26 the real property "Harrison". And how, it will affect the
27 interest of the junior lien holders if Lone Oak Fund LLC is
28 allowed to foreclose.

17 **PLAN B DEBTORS WILL SUBMIT PLAN OF REORGANIZATION**

- 18 1. Debtors believe that Trading Spaces LLC is bon fide buyer and the
19 offer is bon fide, and Trading Spaces is able to close the deal.
20 However, if Trading Spaces LLC will not close as planned by the
21 end of February, 2010 or the first week of March, 2010, Debtors
22 will submit a PLAN.
- 23 2. Debtors are requesting the court for **60 days extension** to submit
24 a plan of reorganization and to hire a Chapter 11 attorney.
- 25 3. Debtors believe that the February 17, 2010 evidentiary hearing
26 will prove to the court that the property "Harrison" has enough
27 equity and essential to debtors' reorganization, and debtors'
28 ability to pay off all their creditors and come out the
bankruptcy. In addition, Debtors believe based on their 25 years
of real estate experience and the interests that the property has
generated, its location and its current appraised value by
commercial appraiser who does not have any interest on the
property, and who have over 25 years of experience in commercial
appraisal, that the Lone Oak Fund interest is safe.

1
2 **DEBTORS RESPONSE TO LONE OAK FUND, LLC RESPONSE ON FEBRUARY 1ST, 2010 TO**
3 **DEBTORS NOTICE OF UNEXPECTED FACTS AND REQUEST FOR EXTENSION OF TIME**
4 **TO MAKE PAYMENT OF \$31,700 ON TIME.**

- 5 1. Debtors sent overnight on January 30, 2010 during the cure period
6 **the \$31,700.00 payment** which was order by the court on January 8,
7 2010. Mr. Simon Aron assistance informed via email the debtors
8 that Mr. Aron had received the payment on February 1st, 2010.
- 9 2. Debtors question the motive and the reason behind Mr. Simon Aron
10 respond knowing that he had already received the payment on
11 February 1st, 2010 before the 5 working days "cure period"
12 expired.
- 13 3. In response to Mr. Simon Aron and Lone Oak Fund assertion that
14 "Lone Oak Fund interests have been and continued to be eroded by
15 the accrual of interest at the rate of approximately \$55,000 per
16 month", Debtors submit to the court that the kind of interest,
17 which is 19 percent, that Lone Oak Fund is charging is not only
18 **UNCONSCIONABLE**, it is predatory lending practice, and it is not a
19 rate that the market and the economy can bare especially in the
20 current economy environment. Thus, Debtors argue and submit to
21 the court that Lone Oak Fund is not in lending business but
22 rather in predatory lending practice, to make it hard for the
23 Debtors to make the payments so that they, Lone Oak Fund LLC, can
24 foreclose and take the property.
- 25 4. Debtors request the court under its authority given by **SECTION**
26 **1129 (b) bankruptcy code to adjust the rate so that the rate will**
27 **be reasonable** for Debtors to make the payment until they sale the
28 property.
5. Debtors will file an application to the court to file a law sue
against Lone Oak Fund and its investors near future, to challenge
the legality of such outrages charge and lending practice.
6. Debtors are still looking a Chapter 11 attorney to represent them
and talked to several of them. Debtors are hoping to get a
Chapter 11 attorney near future.

29 I declare under penalty of perjury under the laws of the United
30 States of America that the foregoing is true and correct and executed
31 the 10th day of February 2010, in Palo Alto, California.

32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

Benyam Mulugeta
Debtor

EXHIBIT I

ALAMEDA COUNTY OFFICE OF THE TREASURER AND TAX COLLECTOR
1221 OAK STREET, OAKLAND, CA 94612
STATEMENT OF PRIOR YEAR SECURED DELINQUENT TAXES DUE

ASSESSED TO: MULUGETA BENYAM & PAULA R
1025 HARKER AVE
PALO ALTO CA 94301

ASSESSOR'S PARCEL 10-768-5
YEAR-DEFAULT NO. 2007/08- 676080
SITUS: 2332 HARRISON ST

REDEMPTION AMOUNT DUE (CURRENT FISCAL YEAR TAXES NOT INCLUDED):

FISCAL YEAR	TAXES AND ASSESSMENTS +	DELINQUENT PENALTY + COST +	REDEMPTION PENALTIES* =	TOTAL
2007/08	35,825.44	3,582.54 10.00	10,210.25	49,628.23
(*1.5% PER MONTH REDEMP PEN ON TAXES/ASSMTS 19 MO = 28.50%)				
2008/09	66,738.12	6,673.80 10.00	7,007.50	80,429.42
(*1.5% PER MONTH REDEMP PEN ON TAXES/ASSMTS 7 MO = 10.50%)				

TOTAL ABOVE	130,057.65
INTEREST ON INSTALLMENT PAYMENTS	.00
PARTIES OF INTEREST NOTICE FEE	.00
RECORDING FEE	.00
STATE REDEMPTION FEE	15.00
SUB-TOTAL	130,072.65

TOTAL AMOUNT DUE TO REDEEM BY 01/29/10 130,072.65

(DETACH AND REMIT THIS STUB WITH YOUR PAYMENT)

ALAMEDA COUNTY OFFICE OF THE TREASURER AND TAX COLLECTOR
PRIOR YEAR SECURED DELINQUENT TAXES REDEMPTION PAYMENT PROCESSING STUB

ASSESSOR'S PARCEL NO. 10-768-5
PAY THIS AMOUNT BY 01/29/10: 130,072.65

MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO: TAX COLLECTOR, ALAMEDA COUNTY.
PLEASE WRITE THE ASSESSOR'S PARCEL NUMBER ONTO YOUR PAYMENT AND REMIT IT
WITH THIS STUB BY USING THE PAYMENT REMITTANCE ENVELOPE PROVIDED TO ENSURE
PROPER CREDIT.

IF PAYMENT IS REMITTED AFTER 01/29/10, CALL (510) 272-6800 FOR THE CURRENT
AMOUNT DUE BECAUSE ADDITIONAL REDEMPTION PENALTIES CONTINUE TO ATTACH TO
THE DELINQUENT TAXES AND ASSESSMENTS AT THE RATE OF 1.5% PER MONTH.
UNDERPAYMENT OF THE CURRENT TOTAL AMOUNT DUE WILL NOT BE ACCEPTED.



**Alameda County
Office of the Treasurer
and Tax Collector**

EXHIBIT II

Donald R. White
Treasurer-Tax Collector

Brenda L. Guess, Chief Deputy
Teresita M. Laugan, Assistant Treasurer

APPLICATION AND AGREEMENT TO ENTER INTO AN INSTALLMENT PAYMENT PLAN

I HAVE READ AND UNDERSTAND AND AGREE ON THE FOLLOWING CONDITIONS AND REQUIREMENTS OF THE PAYMENT PLAN OF REDEMPTION:

- 1) Current year taxes including any supplemental and/or escaped assessments that may be due plus 20% of the redemption amount must be paid to start the installment plan of redemption. A start-up fee of \$60.00 must also be paid.
- 2) On or before April 10 2011, the next installment payment of 20% or more of the redemption amount (total amount to redeem when you started the plan), plus interest accruing on the first day of each month on the unpaid balance must be paid. A maintenance fee of \$30.00 must also be paid.

Interest is computed at the rate of 1.5% per month of the unpaid balance.
- 3) On or before April 10 of each succeeding year, a payment of 20% or more plus the accrued interest plus the \$30.00 maintenance fee must be paid. Interest will continue to accrue on the remaining balance until full payment of the plan.
- 4) Current taxes coming due each year must also be paid on or before April 10 of each year. Any supplemental and/or escaped assessments that may be due must also be paid.
- 5) The annual taxes and installment due on the payment plan plus the \$30.00 maintenance fee must be paid on or before April 10 whether or not a bill or a payment plan reminder is received.
- 6) If the plan is allowed to default for failure to meet the above requirements, a new installment plan may not be initiated until July 1 following the default of the installment plan. A fee of \$60.00 will also be collected when reinstating a plan.
- 7) An installment plan of redemption cannot be initiated after the fifth year following the declaration of tax-default or if the property has become subject to the tax collector's power to sell (R & T Code Section 4217).
- 8) If you let your installment plan default in the fifth year or later after the declaration of default, you will be required to pay the entire outstanding balance in order to redeem the property. Failure to redeem the property in full may result in loss of the property at a public auction sale.

My signature indicates full understanding and compliance with the Installment Payment Plan agreement

Assessor's Parcel Number _____

Signature _____

Name of Applicant (please print) _____

Mailing Address _____

Telephone Number _____

26,074.53
26,014.53+
60.00+
0.00
130,072.65*
26,014.53*+
20.00%
130,072.65x
0.00
0.00
1-27-10

PLEASE SIGN & RETURN TO:

ALAMEDA COUNTY TAX COLLECTOR 1221 Oak Street, Oakland, CA 94612
Telephone Number (510) 272-6800

Alameda County Administration Building, 1221 Oak Street, Oakland California 94612

1 Tsegereda Mulugeta
2 P.O. Box 407
3 Palo Alto, Ca. 94302
4 Tel; 650-575-7578

5 UNITED STATES BANKRUPTCY COURT
6 NORTHER DISTRICT OF CALIFORNIA

7 In Re:

8 Benyam and Paula R. Mulugeta) Case No. 09-51900 ASW
9) Chapter 11
10 Debtors)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

29 **CERTIFICATE OF SERVICE**

30 I am a citizen of United States and residence of Santa Clara County. I am
31 over the age of eighteen years and not a party to the above-entitled action,
32 my address is 1025 Harker Ave., Palo Alto, Ca. 94301.

33 On February 10, 2010, I mailed a true and correct copy of the following document.

34 DECLARATION OF BENYAM MULUGETA RE; MOTION TO SELL REAL PROPERTY

35 "HARRISON in the matter indicated below:

36 X By mail, by enclosing said document(s) in an envelop and depositing the
37 sealed envelop with the United States service with the postage fully prepaid
38 addressed as follows:

39 **See Attached Mailing List**

40 This Certificate was executed on February 10, 2010 at Palo Alto, California.

41 I declare under penalty of perjury that the foregoing is true and correct.

42 Dated: February 10, 2010

43 
44 Tsegereda Mulugeta

1
2
3 **United States Trustee**
4 **Office of the U.S. Trustee**
5 **U.S. Federal Bldg.**
6 **280 S. First St., Suite 268**
7 **San Jose, CA 95113**

8 **SIMON ARON (Bar No. 108183)**
9 **WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP**
10 **11400 West Olympic Blvd., Ninth Floor**
11 **Los Angeles, California 90064-1565**
12 **Telephone: (310) 478-4100**
13 **Fax: (310) 479-1422**

14 **Attorneys for Lone Oak Fund**

15 **Aglaia Panos**
16 **13240 Clairepointe Way**
17 **Oakland, CA 94619**

18 **Robert Taylor**
19 **541B Cowper**
20 **Palo Alto, CA 94301**

21 **Tomoko Nakama**
22 **1569 Jackson St.**
23 **Oakland, CA 94612**